

EXHIBIT 1

CONDENSED COPY

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF DELAWARE

3

4

JEFFREY McCANTS :

5

:

V. : C.A. NO. 04-257 (KAJ)

6

:

WAWA, INC. :

7

8

9

November 1, 2004

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12 Oral deposition of JEFFREY
13 McCANTS, held in the law offices of PEPPER
14 HAMILTON, LLP, Hercules Plaza, Suite 5100,
15 Wilmington, Delaware, commencing at 9:55
16 a.m., on the above date, before Melissa M.
17 Johnston, a Professional Reporter and a
18 Notary Public of the State of Delaware.

19

20

21

LOVE COURT REPORTING, INC.

1500 Market Street

22

12th Floor - East Tower

Philadelphia, Pennsylvania 19102

23

(215) 568-5599

24

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1 What were you going to be selling?
 2 A. Toiletries, fragrances.
 3 Q. Was this an outside sales
 4 job? Do you know what that means?
 5 A. No.
 6 Q. Was it a job that you were
 7 going to report to an office? Did you have
 8 an office for the job or were you going to
 9 work out of your home doing sales?
 10 A. I don't remember.
 11 Q. Where is Products, Inc.
 12 located?
 13 A. I believe in New Castle.
 14 Q. Did you look for any jobs in
 15 the retail sector when you left Wawa?
 16 A. Yes.
 17 Q. What specific companies did
 18 you consider if you considered retail
 19 companies?
 20 A. KFC.
 21 Q. Is that Kentucky Fried
 22 Chicken?
 23 A. Yes.
 24 Q. Was that managing a franchise?

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1 A. Yes.
 2 Q. Is it a franchise run
 3 business?
 4 A. It was a manager's position.
 5 Q. Where was the store located?
 6 A. I don't remember.
 7 Q. Did you get that job?
 8 A. No.
 9 Q. You didn't get a job offer?
 10 A. No.
 11 Q. Do you know why?
 12 A. No.
 13 - - -
 14 (Whereupon, Exhibit McCants-4 was
 15 marked for identification.)
 16 - - -
 17 BY MS. BILENKER:
 18 Q. Mr. McCants, I'm showing you
 19 Exhibit 4. This is the Complaint you filed
 20 in this case or your lawyer filed on your
 21 behalf. Is this, in fact, the Complaint
 22 that you filed in this case? Have you ever
 23 seen this document before?
 24 A. Yes.

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1 Q. What is this document? Is it
 2 the Complaint you filed in this case?
 3 A. Yes.
 4 Q. Did you review this document
 5 before your lawyer filed it?
 6 MR. ABER: Objection. I
 7 instruct the witness not to answer.
 8 BY MS. BILENKER:
 9 Q. I'll ask a different
 10 question. Would you turn to page 2, Mr.
 11 McCants. Paragraphs 7 through 14 are your
 12 factual allocations in this case. Do you
 13 see how the sentences are numbered?
 14 A. These pages are not numbered.
 15 Q. No; the paragraphs. Us
 16 lawyers, we call them numbered paragraphs,
 17 but they're really just sentences that are
 18 numbered in an outline format.
 19 A. You said page 2.
 20 Q. Well, the second page. You're
 21 right. They're not numbered. The second
 22 page. You're looking at numbers 7 through
 23 14. Those are the paragraphs I want you to
 24 focus on. Those are your factual

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1 allegations in this case. I would like to
 2 go through these, and I want to know what
 3 the basis is for your making these
 4 allegations. Paragraph 7, you began
 5 employment with Wawa on or about October
 6 10, 1997. On October 10, 1977. Is that
 7 accurate?
 8 A. Yes.
 9 Q. Then you allege that beginning
 10 in November, 2001, while working in a
 11 facility owned by the defendant, you were
 12 denied a promotional opportunity to be
 13 given a position as a manager at a gas
 14 store. What gas store are you referring
 15 to?
 16 A. Gas store at 840.
 17 Q. So you're alleging that you
 18 applied for a position as manager of 840,
 19 and that would have been a promotion for
 20 you, and you didn't get the promotion. Is
 21 that your allegation?
 22 A. Repeat that please.
 23 Q. In this allegation, are you
 24 saying that you applied for a gas store

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1 manager position which would have been a
 2 promotion for you, but you didn't get the
 3 promotion?
 4 A. Is that two questions?
 5 Q. Did you apply for a gas store
 6 manager position at 840?
 7 A. Yes.
 8 Q. Did you get the job?
 9 A. No.
 10 Q. The next allegation, you say
 11 that the person who got, meaning "gas
 12 store" is 840 was a white person?
 13 A. Is this based on number 9?
 14 Q. Yes. Let me rephrase. What's
 15 the basis for your allegation number 9?
 16 A. The position was given to a
 17 Caucasian individual.
 18 Q. How do you know that?
 19 A. It was told to me by my
 20 supervisor.
 21 Q. Who is your supervisor?
 22 A. John Poplawski.
 23 Q. Do you know the name of the
 24 person who you're referring to? The

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1 Caucasian individual you're referring to?
 2 A. George Sheldon.
 3 Q. How do you know that? From
 4 John Poplawski?
 5 A. Yes.
 6 Q. Did you ever talk to George
 7 Sheldon about the job?
 8 A. No.
 9 Q. When did John Poplawski tell
 10 you that the job went to George Sheldon?
 11 A. I believe the next day after
 12 the interviews.
 13 Q. Was that in person or over the
 14 phone?
 15 A. Over the phone.
 16 Q. Did you call John or did John
 17 call you?
 18 A. I called him.
 19 Q. Why did you call him?
 20 A. I wanted to know the results.
 21 Q. What time of day was it when
 22 you called him?
 23 A. At night.
 24 Q. How did you know the results

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1 were ready when you called John?
 2 A. I didn't know.
 3 Q. What did John tell you during
 4 that conversation?
 5 A. That I didn't get the gas
 6 store.
 7 Q. Did he tell you why?
 8 A. No.
 9 Q. He didn't give you a reason?
 10 A. No.
 11 Q. What else did he say?
 12 A. I didn't get the store.
 13 Q. Did he tell you who got the
 14 store -
 15 A. Yes.
 16 Q. - during that conversation?
 17 A. Yes.
 18 Q. So you learned it was George
 19 Sheldon during that conversation with John
 20 Poplawski?
 21 A. Yes.
 22 Q. How long was that
 23 conversation?
 24 A. I don't remember.

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1 Q. Did you discuss anything else
 2 during that conversation with John
 3 Poplawski?
 4 A. Don't remember.
 5 Q. Will you look at paragraph 10
 6 please, Mr. McCants, and tell me what the
 7 basis of that allegation is?
 8 A. Your question is?
 9 Q. What's the basis for this
 10 allegation that because of the denial of
 11 the promotion, you complained to John
 12 Poplawski about a lack of diversity and
 13 opportunities for minority employees? Are
 14 you alleging that you filed a grievance
 15 with Wawa? What's your basis of this
 16 allegation?
 17 A. I met with Mr. Poplawski at
 18 store 825 after finding out I didn't get
 19 the store. And, at the time, there were no
 20 black gas store managers and I asked them
 21 about the lack of diversity.
 22 Q. Anything else?
 23 A. No.
 24 Q. How do you know there were no

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1 black gas store managers at that time? Did
2 you have firsthand knowledge that there
3 were no black gas store managers at the
4 time?

5 A. Rephrase the question.

6 Q. Do you have firsthand
7 knowledge that there were no black gas
8 store managers at the time?

9 A. In my area, there was no black
10 managers.

11 Q. What is your area?

12 A. It's considered area 8.

13 Q. What does that area cover?
14 What geographic region?

15 A. I believe Wilmington, New
16 Castle, Newark and Claymont.

17 Q. Did you know for sure there
18 were no gas store managers in your area at
19 the time? Did you know that for sure
20 because you were certain about that?

21 A. Yes.

22 Q. You were certain about it?

23 A. Yes.

24 Q. Did you tell Mr. Poplawski

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1 Q. Do you think that to achieve
2 diversity, if you are not qualified for
3 that job, Wawa should have given it to you
4 anyway?

5 A. Repeat.

6 Q. In an effort to achieve
7 diversity, do you think you should have
8 gotten the job? By you getting that gas
9 store manager job, in your opinion, does
10 that make Wawa more diverse?

11 A. No.

12 Q. What do you mean by diversity
13 then? What did you mean by your comment to
14 Mr. Poplawski? Just that there weren't any
15 other gas store managers who were black at
16 the time?

17 A. Yes. And black managers and
18 upper management outside of the stores.

19 Q. Did you say anything else to
20 him about a lack of diversity, or was it
21 just comments about upper management, other
22 black gas store managers and other black
23 manager at Wawa, that there wasn't
24 diversity?

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1 that the reason you didn't get the job was
2 because you were black?

3 A. No.

4 Q. Did you tell Mr. Poplawski
5 that there were no opportunities for
6 minority employees at Wawa?

7 A. No.

8 Q. So your testimony is that you
9 just said to him that there wasn't
10 diversity?

11 A. My question to him was -- to
12 Mr. Poplawski was about diversity, and he
13 said Wawa doesn't do a good job on
14 diversity.

15 Q. Did he say anything else?

16 A. No.

17 Q. That was it? That was all he
18 said to you?

19 A. That's all I remember.

20 Q. How many days after your phone
21 conversation with John Poplawski did this
22 conversation in your store take place with
23 him?

24 A. I believe a couple days.

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1 A. Yes.

2 Q. That was the extent of the
3 conversation?

4 MR. ABER: Can I have the last
5 question read back again?

6 - - -

7 (Whereupon, the requested
8 portion of the notes of testimony
9 was read by the court reporter.)

10 - - -

11 MR. ABER: I object to the
12 last --

13 MS. BILENKER: Let me
14 rephrase it.

15 BY MS. BILENKER:

16 Q. Did you think you didn't get
17 the gas store manager job because of your
18 race?

19 A. Yes.

20 Q. What is the basis for that
21 belief?

22 A. My belief at the time, to my
23 knowledge, there were no black gas store
24 managers or any black employees in the

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1 corporate office in upper management.
 2 **Q. Anything else?**
 3 A. No.
 4 **Q. And I believe I already asked**
 5 **you whether you knew for sure whether there**
 6 **are no black gas store managers in your**
 7 **area, and that is area 8, which you**
 8 **testified was a portion of Delaware;**
 9 **correct?**
 10 A. Yes.
 11 **Q. You don't have knowledge as to**
 12 **whether there were black gas store managers**
 13 **outside your area; correct?**
 14 A. Yes.
 15 **Q. And your belief that you**
 16 **believe there were no black employees in**
 17 **the corporate office or upper management,**
 18 **do you know that for sure?**
 19 A. Rephrase the question.
 20 **Q. Do you know for sure that**
 21 **there were no blacks in upper management or**
 22 **working at Wawa corporate offices? Where**
 23 **Wawa is headquartered; is that what you**
 24 **mean when you say corporate office?**

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1 A. At the time, I believe there
 2 was one. There wasn't a great showing of
 3 blacks in upper management.
 4 **Q. And my question to you is:**
 5 **How do you know that for sure?**
 6 A. Through hearsay.
 7 **Q. Did you intend for your**
 8 **conversation with John Poplawski that we**
 9 **were talking about where you mentioned**
 10 **diversity and John's response to you about**
 11 **how Wawa should do a better job, that's**
 12 **your testimony; right? Or that Wawa**
 13 **doesn't do a good job?**
 14 A. Repeat that please.
 15 **Q. Your conversation with John**
 16 **Poplawski that we talked about that was two**
 17 **days following the phone conversation you**
 18 **had with him where you said there was a**
 19 **lack of diversity, and John's response to**
 20 **you was Wawa could do a better job? Is**
 21 **that your testimony?**
 22 A. I believe I said John
 23 Poplawski stated that Wawa doesn't do a
 24 great job of diversity.

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1 **Q. Did you intend to file a**
 2 **grievance with Wawa for that during that**
 3 **conversation? What was your point in**
 4 **mentioning that to him?**
 5 A. To get a real -- at the time,
 6 to get a real understanding outside of
 7 saying I wasn't qualified, which I knew I
 8 was, for the position. That's what
 9 prompted that question.
 10 **Q. Did Mr. Poplawski ever say you**
 11 **weren't qualified for the job?**
 12 A. I don't remember.
 13 **Q. He told that you George**
 14 **Sheldton got the job?**
 15 A. Yes.
 16 **Q. Did he explain why George**
 17 **Sheldton got the job?**
 18 A. I don't remember.
 19 **Q. Do you know anything about**
 20 **George Sheldton's work history at Wawa?**
 21 A. No.
 22 **Q. If Wawa thought that George**
 23 **Sheldton was more qualified than you, would**
 24 **it be reasonable for them to hire George**

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1 **Sheldton over you?**
 2 A. If it was based on
 3 credentials.
 4 **Q. So the answer is yes?**
 5 A. If it was based on
 6 credentials.
 7 **Q. If Wawa had an honest belief**
 8 **that George Sheldton was more qualified**
 9 **than you, would it be reasonable for them**
 10 **to hire him over you to manage the gas**
 11 **store?**
 12 A. If it was based on
 13 credentials.
 14 **Q. And that's my question. If**
 15 **Wawa honestly believed that George Sheldton**
 16 **had more credentials than you or was more**
 17 **qualified than you to manage the gas store,**
 18 **and we're talking about 840, would it be**
 19 **reasonable for them to hire him?**
 20 MR. ABER: Objection.
 21 MS. BILENKER: What's the
 22 objection?
 23 MR. ABER: The definition of
 24 honest.

14 (Pages 50 to 53)

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1 BY MS. BILENKER:

2 Q. My question is very simple,
3 Mr. McCants. If Wawa believed that Mr.
4 Sheldon had more qualifications than you,
5 would it be reasonable for them to hire him
6 over you?

7 A. If it was based on
8 credentials.

9 Q. And that is part of my
10 question, that they believed he had more
11 credentials than you. Let's assume Wawa
12 believed George Sheldon was more
13 qualified, had more credentials, however
14 you want to state it, would it be
15 reasonable for them to hire him?

16 A. If it was based on
17 credentials.

18 Q. It's a yes or no answer.

19 MR. ABER: No, it isn't. It
20 does not have to be a yes or no
21 answer. He can answer it any way he
22 wants to.

23 MS. BILENKER: Well, I have my
24 answer.

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1 applied for the gas store promotion?
2 (Telephone interruption.)

3 BY MS. BILENKER:

4 Q. Mr. McCants, did you hear my
5 last question?

6 A. Can you repeat it please?

7 Q. Isn't it true you don't know
8 the qualifications of anybody who applied
9 for that gas store position?

10 A. No.

11 Q. It's not true or is it true?

12 A. Repeat the question.

13 Q. My question is: There were
14 other people who applied for the gas store
15 position in addition to you? Do you know
16 who those people are?

17 A. Which store?

18 Q. We're talking about the gas
19 store promotion you applied for that you
20 allege in your complaint, 840.

21 A. 840?

22 Q. I believe it was Tom Grant,
23 George Sheldon, and George DeNuzio. Do
24 you know anything about their

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1 BY MS. BILENKER:

2 Q. Let's assume that Mr. Sheldon
3 had worked in a gas store for 25 years.
4 Would it be reasonable for them to offer
5 him the job over you?

6 A. If it was based on
7 credentials.

8 Q. And part of the credentials
9 were he worked in a gas store before.
10 Would it be reasonable for them to think
11 that he had more credentials than you
12 managing a gas store?

13 A. I can't answer for Wawa.

14 Q. Do you think you were more
15 qualified than George Sheldon?

16 A. I was qualified for the
17 position.

18 Q. Do you think you were more
19 qualified or equally qualified or less
20 qualified than George Sheldon?

21 A. I don't know George's
22 qualifications.

23 Q. Is it true that you didn't
24 know the qualifications of anybody who

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1 qualifications or work history with Wawa?

2 A. No.

3 Q. No; you don't know anything
4 about their qualifications and you don't
5 know anything about their work history?

6 A. No and no.

7 Q. I'll split the question up.
8 Do you know anything about their
9 qualifications?

10 A. No.

11 Q. And you don't know anything
12 about their work history --

13 A. No.

14 Q. -- at Wawa? If you turn to
15 the next page, Mr. McCants, you will see
16 that you start off alleging that on May 21,
17 2002, your Caucasian supervisor informed
18 you that you would be demoted. Who are you
19 referring to?

20 A. Joe Gallagher.

21 Q. How did Mr. Gallagher inform
22 you that you would be demoted?

23 A. In person.

24 Q. Where were you?

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1 that you were going to be demoted.
 2 A. I believe I asked about salary
 3 on the phone conversation we had. I don't
 4 remember asking then about salary.
 5 Q. A phone conversation when?
 6 After this meeting?
 7 A. I believe so.
 8 Q. We'll get to a phone
 9 conversation. I want to know everything
 10 about this meeting with Mr. Gallagher at
 11 store 816 where you were notified that you
 12 were going to be demoted. Okay? So once
 13 we've exhausted this meeting, then we'll
 14 move to the phone conversation you just
 15 alluded to. All right? So --
 16 A. Rephrase the question.
 17 Q. I just want to focus on this
 18 meeting, face-to-face meeting you had with
 19 Mr. Gallagher that you allege happened in
 20 your complaint.
 21 A. Uh-huh.
 22 Q. You allege he notified you you
 23 were being demoted?
 24 A. Uh-huh.

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1 Q. I just want to know what was
 2 discussed at that meeting. So I'm asking
 3 you if salary was discussed at that
 4 meeting?
 5 A. I don't remember.
 6 Q. Then my next question to you
 7 was: Did you ask Mr. Gallagher what your
 8 salary was going to be as an assistant
 9 manager during that meeting?
 10 A. I don't remember.
 11 Q. Isn't it true you told Mr.
 12 Gallagher during that meeting you were
 13 concerned about what other Wawa associates,
 14 especially the ones that work for you, were
 15 going to think about you stepping
 16 down -- thinking about you stepping down to
 17 assistant manager?
 18 A. Don't remember.
 19 Q. Isn't it true you asked Mr.
 20 Gallagher if it would be okay if you
 21 couched the demotion as a resignation --
 22 A. Don't remember.
 23 Q. -- to your staff? Isn't it
 24 true that you told your staff that you were

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1 stepping down to pursue some other
 2 opportunities?
 3 A. Don't remember.
 4 Q. Isn't it true that you thanked
 5 Mr. Gallagher for showing concern about
 6 you?
 7 A. Don't remember.
 8 Q. Do you remember shaking his
 9 hand during that conversation?
 10 A. I shake everybody's hand.
 11 Q. Do you remember giving him a
 12 hug during that conversation?
 13 A. I might have because I'm a
 14 Christian.
 15 Q. Well, would that be because
 16 you're a Christian or because you were
 17 thankful that he was giving you an
 18 opportunity to step back and retrain?
 19 A. Because I'm a Christian.
 20 Q. So you hug everybody --
 21 A. Yes; that wants to be --
 22 Q. -- for no reason?
 23 A. Yes.
 24 Q. Isn't it true you told Mr.

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1 Gallagher that some day, you were going to
 2 look back on this day and thank him for
 3 having this meeting? That the pressure was
 4 off?
 5 A. No.
 6 Q. It's not true that you were
 7 appreciative that Mr. Gallagher was
 8 permitting you to step down as assistant
 9 manager so that the pressure and the stress
 10 of running a Wawa store on your own was
 11 going to be off?
 12 A. No.
 13 Q. How did the conversation end?
 14 A. I don't remember.
 15 Q. Is there anything else you
 16 want to add about that conversation? Or
 17 have you told me everything you can recall
 18 during that conversation?
 19 MR. ABER: Objection.
 20 MS. BILENKER: You can
 21 answer.
 22 THE WITNESS: Rephrase the
 23 question please.
 24 BY MS. BILENKER:

17 (Pages 62 to 65)

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1 **Q. Are you telling me everything**
 2 **you can remember about that conversation**
 3 **with Joe Gallagher?**
 4 **A. Yes.**
 5 **Q. If you look at the next**
 6 **allegation, Mr. McCants?**
 7 **A. Which number?**
 8 **Q. 12. On May 31, you allege you**
 9 **were further retaliated against by**
 10 **management because another white supervisor**
 11 **and area manager said you were going to be**
 12 **assigned a low production store in**
 13 **Claymont, Delaware. Can you explain what**
 14 **you mean by this allegation?**
 15 **A. I believe there was a phone**
 16 **conversation between myself and Mr. Joe**
 17 **Gallagher in reference to the demotion. It**
 18 **was said that I was going to be demoted to**
 19 **store 801.**
 20 **Q. Did you call Mr. Gallagher or**
 21 **did Mr. Gallagher call you?**
 22 **A. I don't remember.**
 23 **Q. So you're saying that on May**
 24 **31, you had a phone conversation with Mr.**

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1 reference to what was going on.
 2 **Q. What did you tell Mr.**
 3 **Shortall?**
 4 **A. I was asking or stating to him**
 5 **what was going on with the demotion, you**
 6 **know, what was the proof behind my**
 7 **demotion? What was going on? And he said**
 8 **he would get back to me, which he never did**
 9 **get back to me.**
 10 **Q. Did you subsequently meet with**
 11 **Mr. Gallagher?**
 12 **A. There was another meeting with**
 13 **Mr. Gallagher and Mr. Mike Stief.**
 14 **Q. And perhaps that was Mr.**
 15 **Shortall's way of explaining to you the**
 16 **reason — having them re-explain the**
 17 **reasons for your demotion?**
 18 **A. I don't know.**
 19 **Q. Did they explain the reasons**
 20 **for your demotion during that second**
 21 **meeting?**
 22 **A. Yes.**
 23 **Q. And what did they say?**
 24 **A. One was it was a financial**

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1 **Gallagher? Or on or about May 31?**
 2 **A. On and about May 31.**
 3 **Q. That's how you were notified**
 4 **you were going to store 801?**
 5 **A. It was through a phone**
 6 **conversation.**
 7 **Q. You didn't meet with him in**
 8 **person again?**
 9 **A. I don't remember.**
 10 **Q. What did you mean to say about**
 11 **another Caucasian supervisor and area**
 12 **manager? You're still referring to Mr.**
 13 **Gallagher?**
 14 **A. Yes. The other manager was**
 15 **Jim Shortall.**
 16 **Q. Isn't it true that a couple**
 17 **days after your conversation with Mr.**
 18 **Gallagher, and this is the first**
 19 **face-to-face meeting that you had with him**
 20 **about the demotion in store 816, isn't it**
 21 **true you called Jim Shortall a couple days**
 22 **later?**
 23 **A. Don't remember if it was a**
 24 **couple days later, but I did contact him in**

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1 statement. I had problems with my
 2 financial statement. And morale.
 3 **Q. Did you agree with those**
 4 **reasons?**
 5 **A. No.**
 6 **Q. What was wrong with the**
 7 **financial statement?**
 8 **A. I don't know.**
 9 **Q. They never explained it?**
 10 **A. No.**
 11 **Q. And you didn't ask?**
 12 **A. No.**
 13 **Q. What was wrong with morale?**
 14 **A. I don't know.**
 15 **Q. They never explained what was**
 16 **wrong with morale?**
 17 **A. I don't remember.**
 18 **Q. You never asked them what they**
 19 **thought was wrong with morale?**
 20 **A. I did ask what was going on**
 21 **with morale. I don't remember what was**
 22 **said.**
 23 **Q. You think that the store**
 24 **associates who worked for you were happy?**

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1 A. I don't know.
 2 Q. Isn't that something you would
 3 know as a manager?
 4 A. You would like to think you
 5 know because some days people come in
 6 happy, some people come in sad. You don't
 7 know if it's because of the store or they
 8 have personal problems.
 9 Q. Would you find out as manager?
 10 A. Yes, I would.
 11 Q. Did you find out?
 12 A. Sometimes.
 13 Q. What do you mean by sometimes?
 14 A. If I saw a situation that was
 15 really out of the normal with a person,
 16 that if, for example, if they came in happy
 17 all the time and if they were sad or
 18 something was going on in their life that I
 19 was privy to ask or if they would
 20 volunteer, then, yes, I would look into it.
 21 Q. Was there a particular example
 22 you have in mind?
 23 A. No.
 24 Q. So you don't recall ever

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1 asking one of your associates at the time
 2 whether they were content in their job?
 3 A. No.
 4 Q. You said that you were
 5 assigned a low production store in
 6 Claymont, Delaware. Do you know what store
 7 you were referring to? What store are you
 8 referring to?
 9 A. Low production store. Is that
 10 on here?
 11 Q. Yes. Number 12. I'm still on
 12 number 12.
 13 A. I don't remember if low
 14 production. It was -- the position was
 15 assistant manager.
 16 Q. And assigned to a particular
 17 store. What store are you referring to?
 18 A. 801.
 19 Q. So you disagree that that was
 20 a low production store?
 21 A. I believe it was a lower value
 22 store.
 23 Q. Than?
 24 A. The store I was at.

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1 Q. And what are you basing that
 2 belief on?
 3 A. The volume.
 4 Q. Did you know that for sure?
 5 Isn't it true that 801 was a high-volume
 6 store?
 7 A. I believe my store was an E
 8 level and 801 was D. And I believe the
 9 focus was on the reduction in pay.
 10 Q. You're saying you were more
 11 concerned about reduction in pay as an
 12 assistant manager. You weren't really
 13 concentrating on the bonus potential or the
 14 earnings potential of store?
 15 A. Both.
 16 Q. So tell me why you think 801
 17 was a lower earning potential than 811.
 18 A. Volume.
 19 Q. And I asked you how you knew
 20 that the volume wasn't as high as 801?
 21 A. Through hearsay.
 22 Q. What do you mean by E level
 23 versus D level? Can you explain that?
 24 A. From my understanding, the

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1 stores, the way they're categorized is
 2 based on letters, the volume of the store.
 3 So as you climb the alphabet, the higher
 4 letter, as you climb the alphabet, as you
 5 go up, indicates the volume of the store.
 6 So, for example, if you have a D store,
 7 it's higher than an A store. C is higher
 8 than an A. C is higher than a B.
 9 Q. But you don't know for sure
 10 whether 801 was a D level store?
 11 A. And I believe it was a D.
 12 Q. And you knew that for sure?
 13 I'm just trying to understand why you think
 14 801, as you allege, was a low production
 15 store?
 16 A. I believe it was a D store.
 17 Q. Any other reason why you think
 18 it's a low production store?
 19 A. No.
 20 Q. Isn't it true that you
 21 suggested that Wawa move you to 801?
 22 A. No.
 23 Q. It's not true that that
 24 suggestion originated with you?

19 (Pages 70 to 73)

Jeffrey McCants

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1 A. No.
 2 Q. Is it your testimony that you
 3 had no say whatsoever as to where Wawa was
 4 going to move you?
 5 A. I had no say.
 6 Q. Aside from the discussion that
 7 you had with Jim Shortall and Joe Gallagher
 8 regarding 801, is there anything else
 9 during that conversation -- and aside from
 10 the reasons they said you gave you for the
 11 demotion, inventory and morale, is there
 12 anything else you can recall from that
 13 conversation?
 14 A. No.
 15 Q. Did you accept the position
 16 during that conversation?
 17 A. No.
 18 Q. What did you say regarding the
 19 position?
 20 A. Well, there was a meeting, the
 21 last meeting I had with Mr. Gallagher and
 22 Mr. Stief. That was the final meeting I
 23 had.
 24 Q. I misspoke. That's the

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1 meeting I'm talking about. I think your
 2 testimony was that you had a phone
 3 conversation and then you had a meeting
 4 with Joe Gallagher and Mike Stief; correct?
 5 A. That's correct.
 6 Q. And I'm talking about during
 7 that meeting with Joe Gallagher and Mike
 8 Stief, they informed you the reasons for
 9 your promotion, which you said was a
 10 financial statement and morale --
 11 A. Uh-huh.
 12 Q. -- being low. And that they
 13 notified you you were going to 801?
 14 A. Right.
 15 Q. Was it certain that you were
 16 going to 801 or was that still up for
 17 discussion?
 18 A. From my understanding, it was
 19 either accept 801 or resign.
 20 Q. What did you do?
 21 A. Resigned.
 22 Q. But during that meeting, you
 23 didn't tell them you resigned during that
 24 meeting?

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1 A. No.
 2 Q. What did you say about the
 3 decision you were going to make?
 4 A. They left it up to me.
 5 Q. And what did you say? You
 6 would think about it? You would tell them
 7 tomorrow?
 8 A. No. I'll think about it.
 9 Q. And was your wife present
 10 during --
 11 A. Yes.
 12 Q. -- that conversation? Why was
 13 she there?
 14 A. For support.
 15 Q. And Wawa let her participate?
 16 A. Yes.
 17 Q. Did she take notes?
 18 A. I don't remember if she took
 19 notes.
 20 Q. Did you look for those notes?
 21 A. I don't remember if she took
 22 notes.
 23 Q. Did your lawyer ask you for
 24 documents, to look for documents in this

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1 case in response to our interrogatories and
 2 document request?
 3 A. Rephrase the question.
 4 Q. Were you asked by your lawyer
 5 to look for documents in response to our
 6 document request?
 7 A. Yes.
 8 Q. And did you look for notes?
 9 Did you come across any notes from the
 10 meeting you had that your wife had taken?
 11 A. I don't remember.
 12 Q. So you don't know whether she
 13 may have notes from that conversation or
 14 not?
 15 A. I don't.
 16 Q. Did you ask her whether she
 17 has notes from that conversation?
 18 A. I don't remember.
 19 Q. You didn't ask her?
 20 A. I don't remember.
 21 Q. You don't remember if you
 22 asked her. You have to ask her. Okay?
 23 MS. BILENKER: Mr. Aber, I
 24 request that Mr. McCants ask his

20 (Pages 74 to 77)

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1 wife for notes she took during that
2 May 31 meeting with Joe Gallagher
3 and Mike Stief.

4 MR. ABER: So far, I've given
5 you everything.

6 MS. BILENKER: He just
7 testified he didn't recall asking
8 her. I want him to ask her. I want
9 those notes because we have reason
10 to believe they exist.

11 MR. ABER: If they're there
12 and they're appropriate, we'll
13 produce them.

14 MS. BILENKER: Thank you.

15 BY MS. BILENKER:

16 **Q. Is there anything else you**
17 **want to tell me further about that**
18 **conversation?**

19 A. At that meeting, Mr. Joe
20 Gallagher mentioned that he talked to the
21 staff, stating that he spoke with employees
22 at 811 in reference to my conduct as a
23 manager, stating that it was said that I
24 was a nice guy, but a crappy manager.

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1 A. I don't remember.

2 **Q. You don't remember her perhaps**
3 **changing your mind about the situation,**
4 **that she didn't think it was a good idea**
5 **for you to step down to assistant manager?**

6 A. I don't remember.

7 **Q. Is there anything else about**
8 **that meeting that you recall was discussed?**

9 A. No. Is it okay if I stretch
10 my legs?

11 MR. ABER: Do you want to take
12 a five-minute break?

13 MS. BILENKER: Sure.

14 - - -

15 (Whereupon, there was a
16 recess in the proceedings.)

17 - - -

18 BY MS. BILENKER:

19 **Q. I think where we were, Mr.**
20 **McCants, we were discussing the**
21 **face-to-face meeting you had with Joe**
22 **Gallagher and Mike Stief on or about May**
23 **31, 2002, which they again notified you**
24 **about the demotion; correct? That's where**

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1 **Q. He used that word crappy?**

2 A. It was something -- I don't
3 know if that was the exact word, crappy,
4 something stating either lousy or crappy
5 manager. Nice guy, but lousy or crappy. I
6 don't remember the exact word. And this
7 was -- which I never knew anything about
8 until that meeting. It was brought to my
9 attention at that meeting after he told me
10 about 801.

11 **Q. So it's your testimony the**
12 **first time you learned about the discontent**
13 **among your staff was at that May 31**
14 **meeting?**

15 A. Yes.

16 **Q. Anything else you want to tell**
17 **me about that conversation that was**
18 **discussed? Do you recall?**

19 A. No.

20 **Q. The time period between the**
21 **two meetings, the May 22 meeting and the**
22 **May 31 meeting, that week or so, did you**
23 **have any conversation with your wife about**
24 **the demotion?**

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1 we were. Bring us back there. Okay? Yes?

2 A. Yes.

3 **Q. I believe I asked you if there**
4 **was anything else you could remember about**
5 **the conversation, and you said no, we've**
6 **covered everything that you can recall**
7 **about that conversation?**

8 A. I'm sure there were other
9 things said, but I don't remember
10 everything.

11 **Q. Do you remember anything**
12 **else? Because now is your opportunity to**
13 **tell me.**

14 A. No.

15 **Q. Why do you think you were**
16 **demoted?**

17 A. I don't know.

18 **Q. Do you think it was because of**
19 **your race?**

20 A. I believe it was a
21 continuance. It all started with not
22 getting the gas store promotion and when I
23 expressed my concern to Mr. Poplawski about
24 lack of diversity, I think it was a

21 (Pages 78 to 81)

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1 continuum.
 2 **Q. Why didn't they demote you**
 3 **right after you complained? Why did they**
 4 **wait until May?**
 5 A. I don't know.
 6 **Q. You're saying that you believe**
 7 **your demotion was the direct result of your**
 8 **comment you made to Mr. Poplawski about a**
 9 **lack of diversity?**
 10 A. Yes.
 11 **Q. Anything else? Any other**
 12 **reason why you believe you were demoted?**
 13 A. No.
 14 **Q. Are you claiming religious**
 15 **discrimination in this case? Are you**
 16 **claiming that Wawa discriminated against**
 17 **you because of your religion? Are you**
 18 **claiming that your demotion -- that Wawa**
 19 **demoted you because of your religion?**
 20 A. In addition to the comment or
 21 in addition to me asking Mr. John Poplawski
 22 about lack of diversity, there was also a
 23 comment made by Mr. Joe Gallagher that I
 24 didn't work on Sunday because I did the

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1 church thing. So I believe it was a
 2 continuance of the lack of the diversity
 3 question. It was an ongoing thing starting
 4 with lack of diversity and next the
 5 question about -- the next comment about
 6 church.
 7 **Q. Let me back up. Are you**
 8 **claiming that the reason you were demoted**
 9 **is because of your religion?**
 10 A. Race.
 11 **Q. And what is your basis for**
 12 **saying that it's race?**
 13 A. When store 840 was posted, and
 14 the managers that interviewed for that
 15 store -- it was said to me by John
 16 Poplawski that whenever there is a gas
 17 store posting, all managers who want to
 18 interview for the store can. Store 840 was
 19 awarded to George Sheldon. George
 20 Sheldon came from 841, where he was
 21 already a gas store manager. At that time
 22 when George was awarded store 840, 841
 23 became available. No one interviewed for
 24 that store. Chris Casey was manager at

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1 store 842. He was given store -- gas store
 2 841, white manager, without being
 3 interviewed. Tom, who is the store manager
 4 at 811, was given store 842 without being
 5 interviewed, and I was transferred to store
 6 811.
 7 **Q. Okay.**
 8 A. Race.
 9 **Q. What --**
 10 A. White manager was awarded the
 11 gas store again without being interviewed.
 12 **Q. Because of race?**
 13 A. Yes.
 14 **Q. What is your basis for saying**
 15 **that the reason he was awarded 841 was**
 16 **because of race?**
 17 A. Yes. It had to be race
 18 because I didn't get store 840. It was
 19 awarded to a white -- a Caucasian, and then
 20 I was told that all gas stores, all
 21 managers interviewed for it, and I did not
 22 receive an interview for that store. It
 23 was awarded to a Caucasian.
 24 **Q. Was anyone else interviewed**

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1 **for that store?**
 2 A. Which store?
 3 **Q. For 841.**
 4 A. No.
 5 **Q. So how were you treated**
 6 **differently?**
 7 A. I was told that all managers
 8 who are eligible to interview will
 9 interview. And I didn't interview.
 10 **Q. You interviewed for store 840?**
 11 A. Right. Which I was qualified
 12 for and I didn't get.
 13 **Q. We've established that you**
 14 **don't know any of the qualifications of the**
 15 **person who got that job over you?**
 16 A. I don't know their
 17 qualifications. I know my qualifications.
 18 **Q. How did you know store 840**
 19 **became vacant? It was posted; right?**
 20 A. That's correct.
 21 **Q. And the reason it became**
 22 **vacant was because a manager there went to**
 23 **another job at Wawa; right? Joann Jackson;**
 24 **right?**

22 (Pages 82 to 85)

Jeffrey McCants

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1 A. Rephrase the question.
 2 Q. Isn't it true that the vacancy
 3 at 840 posted because the manager there
 4 went on to a different job at Wawa?
 5 A. What was the name of the
 6 manager?
 7 Q. Joann Jackson. Didn't you
 8 work under her at 840? Didn't she train
 9 you? You don't recall if Joann Jackson
 10 trained you at Wawa?
 11 A. Joann Jackson. Joann Jackson
 12 was the manager before George Sheldon.
 13 Q. So she went to a different job
 14 at Wawa and there was vacancy at 840;
 15 correct?
 16 A. Yes.
 17 Q. Everybody interviewed for the
 18 vacancy at 840? You just explained that
 19 George Sheldon got that job and left an
 20 opening at 841?
 21 A. Yes.
 22 Q. Nobody interviewed for the job
 23 at 841; right? Everybody just got bumped
 24 up; isn't that true?

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1 A. Based on my conversation with
 2 John Poplawski, when gas stores become
 3 available, you can interview for the gas
 4 store. 841 came available and I did not
 5 receive an interview for gas store 841.
 6 Q. And nobody interviewed for
 7 841; correct?
 8 A. I don't know that.
 9 Q. So you don't know if anybody
 10 was interviewed or not? Same question.
 11 A. No.
 12 Q. The individual who got 841 you
 13 testified was Chris Casey?
 14 A. Yes.
 15 Q. Do you know if you were more
 16 qualified or less qualified or equally
 17 qualified than Chris Casey?
 18 A. I don't know Chris Casey's
 19 qualifications.
 20 Q. Isn't it true that 840 was a
 21 number 1 store at the time in Wawa? It was
 22 a very high-volume store?
 23 A. It's a high-volume store. I
 24 don't know if it was number 1.

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1 Q. What store were you working in
 2 at the time?
 3 A. At the time of what?
 4 Q. You interviewed for 840.
 5 A. 825.
 6 Q. What was your store ranked at
 7 Wawa?
 8 A. Ranked as far as?
 9 Q. Out of the 500 stores at
 10 Wawa.
 11 A. I don't know.
 12 Q. Would you agree it was 415 out
 13 of 500?
 14 A. I don't know.
 15 Q. You don't know what the store
 16 was ranked?
 17 A. No.
 18 Q. How long had you been managing
 19 825 at the time?
 20 A. I believe close to a year.
 21 Q. Would you say it's more
 22 difficult or less difficult or equally
 23 difficult to manage a gas store at Wawa
 24 versus a regular store without gas?

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1 A. Repeat that.
 2 Q. Is it harder to manage a gas
 3 store than a regular store without gas at
 4 Wawa?
 5 A. It's more responsibility on
 6 you to manage.
 7 Q. You supervise more people?
 8 A. It's --
 9 Q. True? You supervise more
 10 people?
 11 A. It's more responsibility.
 12 You --
 13 Q. Go ahead.
 14 A. It's more responsibility on
 15 you to manage a gas store.
 16 Q. When you didn't get the gas
 17 store job, Mr. McCants, did you file a
 18 grievance?
 19 A. No.
 20 Q. Why not?
 21 A. I don't know.
 22 Q. I'm going show you another
 23 document.
 24 - - -

23 (Pages 86 to 89)

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1 Q. Did you do that on a regular
2 basis?
3 A. Yes.
4 Q. If a store associate
5 complained that you didn't do that, would
6 they be lying?
7 A. Yes.
8 Q. If three store associates
9 claim that you didn't do that, would the
10 three of them be lying?
11 A. Yes.
12 Q. How about work with FSM? What
13 does that mean?
14 A. Food service manager.
15 Q. How would you work with the
16 FSM?
17 A. Make sure ordering -- our
18 ordering was correct. Make sure that
19 spoilage -- we were controlling spoilage.
20 Q. Did you do that --
21 A. Sanitation. Deli service.
22 And training.
23 Q. Did you do that at 825?
24 A. Yes.

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1 Q. You think you did that
2 successfully at 825?
3 A. Yes.
4 Q. What does get cash in check
5 mean?
6 A. Cash is part of shrink,
7 inventory loss, and control, making sure
8 that the tills are not above -- we're
9 supposed to have -- if I remember
10 correctly, \$95 in cash in the till. If you
11 go above that, it's not a good thing
12 because customers, when they see you open
13 up the register, they see a lot of money in
14 there. When employees log off their
15 registers, make sure -- look at the over
16 and under of the day and deposits.
17 Q. Do you think you had that
18 under control at 825?
19 A. For the most part, I did. I
20 think a couple months, I didn't have it
21 under control.
22 Q. How about getting labor
23 dollars on track? What does that mean?
24 A. There was a certain percentage

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1 for your store that you couldn't go above,
2 what was budgeted for that store as far as
3 labor.
4 Q. What was --
5 A. And I believe that was --
6 might have been, if I remember correctly,
7 39 percent.
8 Q. What is watch the use of
9 03/04/08 hours?
10 A. That was assigned to the
11 associates. 03, if I remember correctly,
12 is management. 04 was associates. 08 was
13 training.
14 Q. How about watch purchases -
15 internal and external? Customers?
16 A. No. That was based on your
17 vendors. When we place our orders through
18 the computer system other when you assign
19 somebody to do your orders, make sure
20 they're ordering properly for the store,
21 and then you had to watch for the vendors
22 that did their own -- came in and gave you
23 an account of what they thought you needed
24 in your store.

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1 Q. Did you enter the invoices
2 from those vendors properly?
3 A. Yes.
4 Q. Did you ever have issues with
5 respect to those? In other words, you
6 didn't enter them properly all the time?
7 A. There was a couple times, yes,
8 I had problems, you know. A certain
9 product wasn't in the system and we had to
10 find out why we got a new product and it
11 wasn't in the system. So I had problems
12 like that; yes.
13 Q. What about your Patco Score?
14 Increase Patco Score. How would you do
15 that?
16 A. That came with operations. If
17 everybody -- it had to do with cleanliness
18 of the store. Making sure dates were
19 correct on your product. First in, first
20 out. Just making sure everyone did their
21 job concerning Patco.
22 Q. You had low Patco scores in
23 825; isn't that true?
24 A. I don't remember all the

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1 scores.
 2 **Q. They weren't high. They were**
 3 **low. You don't recall?**
 4 A. No.
 5 **Q. You don't recall having issues**
 6 **with respect to Patco in store 825?**
 7 A. No.
 8 **Q. How were you going to develop**
 9 **your staff, which is the next line?**
 10 A. First with management, making
 11 sure management took the assigned classes
 12 that were posted on the computer system.
 13 Work one-on-one with them in training,
 14 empowerment.
 15 **Q. Did you do that in 825?**
 16 A. Yes.
 17 **Q. You think you did that in 825?**
 18 A. Yes.
 19 **Q. Why did you think you were**
 20 **qualified to manage 840?**
 21 A. I worked at the MIT at 840
 22 under Joann Jackson.
 23 **Q. You never managed a gas store**
 24 **on your own did you?**

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1 A. No.
 2 **Q. George Sheldon had, or you**
 3 **don't know?**
 4 A. Yes. He managed store 841.
 5 **Q. He came from 841?**
 6 A. Uh-huh.
 7 **Q. And Chris Casey had managed a**
 8 **gas store, too; isn't that correct?**
 9 A. I believe so.
 10 **Q. Isn't it true you don't know**
 11 **how the other applicants did in their**
 12 **interviews for 840?**
 13 A. No.
 14 **Q. It's not true or it's true,**
 15 **you don't know?**
 16 A. I don't know how they did --
 17 **Q. And you haven't --**
 18 A. I don't know.
 19 **Q. You didn't see their business**
 20 **plans? Or did you?**
 21 A. No.
 22 **Q. So you don't know the basis**
 23 **for Wawa's decision in choosing other**
 24 **candidates over you to manage the gas**

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1 **stores at issue; isn't that true?**
 2 A. I would like to believe it was
 3 based on credentials.
 4 **Q. And you don't know which**
 5 **credentials Wawa valued over others;**
 6 **correct?**
 7 A. No.
 8 **Q. Now instead of getting 840 or**
 9 **841, you went to 811; right? Store 811?**
 10 A. Yes.
 11 **Q. Or 825. And that was still a**
 12 **promotion; correct?**
 13 A. Yes.
 14 **Q. I want to turn back to your**
 15 **Complaint, Mr. McCants. I think we were on**
 16 **allegation 13. Well, I think where we were**
 17 **was I was asking you whether you were**
 18 **bringing a religious discrimination claim.**
 19 **I think you said -- you didn't say yes or**
 20 **no, but you said you believe it's because**
 21 **of your race that you didn't get the**
 22 **promotion and that you were demoted.**
 23 **Correct me if I'm wrong, and I want to be**
 24 **sure I know what you're alleging. So**

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1 **you're saying the reason you didn't get the**
 2 **promotion was because of race?**
 3 A. Yes. Because when I asked Mr.
 4 Poplawski about lack of diversity, I
 5 believe I was targeted at that point. Even
 6 when I got to the promotion to 811, I think
 7 it was just to pacify me. And I am well
 8 aware that when a manager goes from store
 9 to store, the supervisor that's going to be
 10 responsible for him, they are well aware of
 11 the person they're getting. And I believe
 12 when it fell into Mr. Joe Gallagher's
 13 hands, it was a continuation from me asking
 14 the question about lack of diversity. And
 15 they maybe thought I was going to be a
 16 problem, which I wasn't. And that's where
 17 the continuation of the church
 18 comment. . .
 19 **Q. That was the first comment.**
 20 **There was another comment?**
 21 A. No. The church comment was
 22 from Mr. Joe Gallagher. So I believe I was
 23 getting set up to be forced out.
 24 **Q. So you are bringing a**

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1 religious discrimination claim?
 2 A. Yes.
 3 Q. What other evidence do you
 4 have that you were discriminated against on
 5 the basis of your religion aside from the
 6 comment that you allege Joe Gallagher made?
 7 A. That's it.
 8 Q. So if you look at paragraph
 9 13, which says, one of the reasons for the
 10 retaliatory actions taken was that you
 11 didn't have commitment because you refused
 12 to work Sundays, because you attended
 13 church on Sundays, what's the basis for
 14 that allegation? Did Wawa ever tell you
 15 you have to work Sunday?
 16 A. No.
 17 Q. What is the basis for that
 18 allegation?
 19 A. My commitment.
 20 Q. What about your commitment?
 21 A. There was a concern about my
 22 commitment. That's when the Sunday came
 23 up, that I didn't work Sundays because I
 24 did the church thing, which I did --

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1 A. Department of Labor.
 2 Q. Your charge?
 3 A. Yes.
 4 Q. I'm talking about a grievance
 5 within Wawa.
 6 A. No.
 7 Q. You're aware of the grievance
 8 procedures at Wawa; correct?
 9 A. No.
 10 Q. You didn't know that Wawa had
 11 an internal grievance procedure?
 12 A. No.
 13 Q. As a manager, you weren't
 14 aware of that?
 15 A. No.
 16 Q. Did you get the employee
 17 handbook at Wawa when you worked at Wawa?
 18 Did you get the policies and procedures
 19 handbook when you joined Wawa?
 20 A. Don't remember.
 21 Q. Did you ever see the policies
 22 and procedures handbook while you worked
 23 for Wawa?
 24 A. Don't remember.

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1 Q. You did work Sundays?
 2 A. -- work Sundays.
 3 Q. So what was the issue? What
 4 was the issue?
 5 A. The issue is: Why was the
 6 comment made?
 7 Q. Anything else regarding the
 8 discrimination on the basis of religion
 9 that you want to explain? Is there any --
 10 I think it's been asked and answered. I
 11 asked you if there was anything else and
 12 you said it was a comment and there was
 13 nothing else you could recall at Wawa --
 14 that would give you the basis for thinking
 15 Wawa discriminated against you was on the
 16 basis of your religion?
 17 A. No.
 18 Q. Did you ever file a grievance
 19 with Wawa claiming religious
 20 discrimination?
 21 A. Not with Wawa.
 22 Q. Did you ever file a claim --
 23 A. The labor --
 24 Q. -- with somebody else?

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1 Q. I want to go back to your
 2 meeting that we said was on around May 21
 3 or 22 with Mr. Gallagher when you were
 4 notified you were being demoted. Why do
 5 you think Wawa chose to demote you and not
 6 terminate you?
 7 MR. ABER: Objection.
 8 THE WITNESS: I don't know.
 9 BY MS. BILENKER:
 10 Q. Did they explain the reason
 11 for demoting you would be to help retrain
 12 you in certain aspects of your job so that
 13 you could later become a manager? You
 14 could become a manager again?
 15 A. No.
 16 Q. They never explained that to
 17 you?
 18 A. No.
 19 Q. Isn't it true in that
 20 conversation you expressed some interest
 21 about other jobs within Wawa outside of the
 22 store?
 23 A. I know I expressed interest to
 24 Mike Stief about going to corporate --

28 (Pages 106 to 109)

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1 Q. How come --

2 A. -- when he came on as our -- I
3 believe it's area manager or area
4 supervisor.

5 Q. How come you never pursued
6 that interest?

7 A. Well, I believe at the time
8 that I -- that you had to go through being
9 a gas store manager.

10 Q. You thought you had to be a
11 gas store manager in order to get a
12 corporate position at Wawa headquarters?

13 A. Yes.

14 Q. And what do you base that
15 belief on?

16 A. I don't know, but that was my
17 belief, that you had to go through the
18 ranks of being in the field before you go
19 to corporate.

20 Q. Isn't it true that your
21 supervisors made it known that you could
22 have -- they would help you explore other
23 opportunities within Wawa?

24 A. No.

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1 and what assistant managers get paid.

2 Q. Did you ask about what your
3 salary was going to be?

4 A. No.

5 Q. Did they tell you what your
6 salary was going to be?

7 A. Don't remember, but assistant
8 managers -- I'm a manager, and I'd like to
9 think if you're a manager, assistant
10 manager is going to make less than a
11 manager.

12 Q. Were you concerned about that?

13 A. Yes.

14 Q. But you didn't ask about it?

15 A. Don't remember.

16 Q. You don't remember at all
17 discussing what your salary was going to
18 be? That's your testimony?

19 A. I don't remember asking.

20 Q. Did you take any notes during
21 those meetings? I'm talking about the
22 first meeting with Mr. Gallagher.

23 A. No.

24 Q. You didn't take any notes

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1 Q. Weren't you getting experience
2 in the field as being a store manager of a
3 non-gas store? I don't quite understand
4 the logic that you thought you had to be a
5 gas store manager to get a corporate job.

6 A. I just heard that. I thought
7 that was the way to go.

8 Q. Who did you hear that from?

9 A. I don't remember who I heard
10 it from, but I thought that's the way to
11 go. In order to get in corporate, you had
12 to go through being a gas store manager
13 first.

14 Q. Did you ever get that
15 confirmed by your supervisors?

16 A. No.

17 Q. You never asked?

18 A. No.

19 Q. When did you discuss salary,
20 the details about what your salary would be
21 as an assistant manager after you were
22 notified you were demoted?

23 A. I believe at the meeting with
24 Mike Stief, I was told about the demotion

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1 during the second meeting with Mr.
2 Gallagher and Mr. Stief?

3 A. No.

4 Q. Did you ever talk about -- now
5 we're going to the second meeting with Mr.
6 Gallagher and Mr. Stief. Did you ever talk
7 about what standards of performance are?

8 A. No.

9 Q. Did Mr. Gallagher and Mr.
10 Stief ask you or tell you how long you had
11 to think about the decision? Did they give
12 you an idea when you should contact them
13 about your decision, whether you were going
14 to accept a demotion or resign, or
15 something else?

16 A. No.

17 Q. So the next time you contacted
18 Wawa was in August. You left a voicemail
19 message for Mr. Stief? Does that sound
20 right?

21 A. I left a voicemail for Mr.
22 Stief. I don't know when it was.

23 Q. It was at least a month
24 later. Does that sound right?

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1 A. I don't remember the time.
 2 Q. Do you know when your official
 3 resignation date was?
 4 A. No.
 5 Q. Does August 12 sound right?
 6 A. I don't know.
 7 Q. You don't recall being very
 8 specific to Mr. Stief's voicemail that you
 9 wanted August 12 to be the resignation
 10 date?
 11 A. No.
 12 Q. After that meeting, did you
 13 apply for workers' comp?
 14 A. I applied for workmen's comp.
 15 I don't know if that was the date.
 16 Q. After the meeting, you applied
 17 for workers' comp?
 18 A. I don't know if that was the
 19 date. I applied for it, but I don't know
 20 if that was the date.
 21 Q. I'm not giving you the date.
 22 I'm saying, after you met with them
 23 regarding the demotion, regarding the
 24 assistant manager position –

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1 A. I applied for workmen's comp
 2 but I don't know when.
 3 Q. Did you also apply for
 4 short-term disability?
 5 A. Yes.
 6 Q. And you collected short-term
 7 disability?
 8 A. Yes.
 9 Q. For how long?
 10 A. I don't know.
 11 Q. Isn't it true you were still
 12 collecting short-term disability from Wawa
 13 and you'd already started another job with
 14 Elite?
 15 A. Don't remember.
 16 Q. Mr. McCants, you testified
 17 that the reasons the company gave you for
 18 having – for demoting you to assistant
 19 manager were performance-related; right?
 20 They said the financial statement and the
 21 low morale were the two reasons you said
 22 they gave you?
 23 A. Uh-huh.
 24 Q. Let's say the company believed

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1 that was true, had an honest belief that
 2 was true. Would it be reasonable for them
 3 to demote you?
 4 MR. ABER: Objection.
 5 MS. BILENKER: You can
 6 answer.
 7 THE WITNESS: Repeat the
 8 question.
 9 BY MS. BILENKER:
 10 Q. If Wawa had an honest belief
 11 that the reasons that they needed to demote
 12 you was that you had a troubled financial
 13 statement or your financials in the store
 14 weren't good or the morale was really
 15 problematic in your store, would it be
 16 reasonable for Wawa to demote you?
 17 A. In the meeting with Mr. Joe
 18 Gallagher and Mr. Mike Stief, up until that
 19 meeting, I had no proof of anything.
 20 Morale, troubled statement, anything of
 21 that nature.
 22 Q. What was the last grade of
 23 school that you completed?
 24 A. School? High school or

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1 college?
 2 Q. Start with high school.
 3 A. 12th.
 4 Q. You graduated high school?
 5 A. Yes.
 6 Q. Did you graduate from college?
 7 A. Some college.
 8 Q. So you didn't graduate –
 9 A. No.
 10 Q. – from college? How much
 11 college did you attend?
 12 A. Three years.
 13 Q. Why didn't you graduate?
 14 A. I left for personal reasons.
 15 Q. What were those reasons?
 16 A. I left for personal reasons.
 17 Q. And I'm asking you: What were
 18 those reasons?
 19 A. I left for personal reasons.
 20 Q. I'm asking you: What were the
 21 personal reasons you left?
 22 A. Family.
 23 Q. What about your family?
 24 A. Sickness.

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1 Productions?
 2 A. No.
 3 Q. Did you ever work at
 4 McDonald's?
 5 A. Don't remember.
 6 Q. You don't remember whether you
 7 ever worked for McDonald's or not?
 8 A. No; I never worked for
 9 McDonald's.
 10 Q. While you were a student at
 11 Widener, you indicate here on the
 12 application that you worked for
 13 McDonald's. Are you saying that that's not
 14 true?
 15 A. That's not true.
 16 Q. Why would it indicate that you
 17 worked for McDonald's if you never worked
 18 for McDonald's?
 19 A. I don't know.
 20 Q. And why would it indicate that
 21 you worked for Wawa if you didn't work for
 22 Wawa?
 23 A. I don't know.
 24 Q. Who took this information down

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1 Wawa? Did you see an ad in the paper? Did
 2 you go on the internet?
 3 A. Ad in the paper.
 4 Q. What was it an ad for? Was it
 5 a managerial position? An associate
 6 position? Assistant manager position?
 7 Where did you want to work at Wawa?
 8 A. Repeat that please.
 9 Q. Where did you want to work
 10 within Wawa?
 11 A. Where did I want to work at
 12 Wawa?
 13 Q. At the time you applied?
 14 A. Management.
 15 Q. Did you want to work in a
 16 store? Did you want to work in HR? Did
 17 you want to work in corporate?
 18 A. Store.
 19 Q. Did you, in fact, get the job?
 20 A. Yes.
 21 Q. And what was your first
 22 position in Wawa?
 23 A. I believe it was assistant
 24 manager.

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1 for this application? Who did you speak to
 2 at Guardsmark about the job that you were
 3 applying for?
 4 A. I don't remember.
 5 MS. BILENKER: Let's go off
 6 the record.
 7 - - -
 8 (Whereupon, an off-the-record
 9 discussion was held.)
 10 - - -
 11 BY MS. BILENKER:
 12 Q. Where did you work before you
 13 worked for M. Charles Productions?
 14 A. I don't remember.
 15 Q. After you worked at M. Charles
 16 Productions, you applied for a job with
 17 Wawa; correct?
 18 A. Yes.
 19 Q. And you allege in the
 20 complaint it was about October, '97?
 21 A. Yes.
 22 Q. Who hired you?
 23 A. Rick Downes.
 24 Q. How did you come to apply for

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1 - - -
 2 (Whereupon, Exhibit McCants-6 was
 3 marked for identification.)
 4 - - -
 5 BY MS. BILENKER:
 6 Q. Is this your job application
 7 for Wawa? Is this your handwriting?
 8 A. Yes.
 9 Q. Is that your signature on the
 10 second page?
 11 A. Yes.
 12 Q. And it's dated October 21,
 13 1997?
 14 A. Yes.
 15 Q. So you were hired as an
 16 assistant manager. Did it come to a point
 17 when you joined the manager-in-training
 18 program?
 19 A. Yes.
 20 Q. And what did you understand
 21 that program to be?
 22 A. Manager in training.
 23 Q. So you were going to train for
 24 some period of time under a manager to

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1 eventually become a manager yourself?
 2 A. Yes.
 3 Q. And I think you testified you
 4 agreed that you trained under Joann
 5 Jackson; is that right?
 6 A. Yes.
 7 Q. And that was in store 840?
 8 A. I worked with Joann at 816,
 9 too.
 10 Q. Then there came a time when
 11 you were promoted to a manager?
 12 A. Yes.
 13 Q. Would that sound right if I
 14 were to say that was in the fall of 2000?
 15 A. Yes.
 16 Q. Which store were you
 17 managing? What was your first store that
 18 you managed?
 19 A. 825.
 20 Q. Who did you report to?
 21 A. Rick Downes.
 22 Q. Did there come a point when
 23 you began reporting to John Poplawski?
 24 A. Yes.

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1 Q. And what is his name?
 2 A. Julian McCants.
 3 Q. What occasion did Wawa have to
 4 take these pictures?
 5 A. Recruitment.
 6 Q. What about recruitment?
 7 A. Mr. Rick Downes asked me if I
 8 would participate in a recruitment poster.
 9 Q. What was your reaction?
 10 A. I said yes.
 11 Q. What did it involve? What did
 12 you have to do as part of the recruitment
 13 campaign?
 14 A. Take pictures.
 15 Q. Why do you think Wawa asked
 16 you to be depicted on their recruitment
 17 campaign poster?
 18 A. I don't know.
 19 Q. Did you consider it an honor?
 20 A. I don't know.
 21 Q. How many associates reported
 22 to you at 825?
 23 A. I believe it was 20 to 25.
 24 Q. How would you describe

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1 Q. How soon after you assumed the
 2 manager position at 825 did you begin
 3 reporting to John Poplawski?
 4 A. I don't remember.
 5 Q. Did you and Rick Downes have a
 6 good relationship?
 7 A. I'd like to think so.
 8 Q. Did you and John Poplawski
 9 have a good relationship?
 10 A. I'd like to think so.
 11 - - -
 12 (Whereupon, Exhibits McCants-7
 13 and McCants-8 were marked for
 14 identification.)
 15 - - -
 16 BY MS. BILENKER:
 17 Q. These are photographs of you,
 18 Mr. McCants. The first document, No. 7, is
 19 a document that Wawa has. And the second
 20 document, No. 8, is a document that you
 21 produced, a couple pages that you produced,
 22 which are pictures of what? Who was with
 23 you in these pictures?
 24 A. My son.

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1 yourself as a manager at 825? How do you
 2 feel you performed as a manager?
 3 A. My first year? It was my
 4 first store manager job, first year. I
 5 believe I did pretty well. Above average.
 6 Q. Well, your first year, you
 7 were only in the store a little over a
 8 year; right? Before you went on to 811;
 9 isn't that right?
 10 A. Repeat that please.
 11 Q. You really were only managing
 12 825 for about a year before you were
 13 promoted to 811; isn't that right? It's
 14 2001.
 15 A. It was anywhere from nine
 16 months to a year, I believe.
 17 Q. So you believe you performed
 18 above average in that year?
 19 A. Based on my evaluation. Based
 20 on 1, 2, 3, 3 being the highest, I was
 21 evaluated at 2-1/2.
 22 Q. Why don't we talk about your
 23 evaluation.
 24 - - -

33 (Pages 126 to 129)

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1 A. Yes.

2 Q. My question is: After you got
3 this write-up, did you start working the
4 requisite 46.75 hours per week; yes or no?

5 A. Yes.

6 Q. Is it your testimony that your
7 time clock, the time records would indicate
8 that?

9 A. It should.

10 Q. And if they didn't?

11 A. I don't know if they didn't.

12 Q. Did you ever go back to the
13 system and edit your time to reflect the
14 46.75 hours when you, in fact, hadn't
15 worked 46.75 hours?

16 A. No.

17 Q. Did you do any other editing
18 of your hours going into the system and
19 changing hours that you worked?

20 A. The only time I did editing is
21 if I didn't clock in or the system was
22 down.

23 Q. Did you ever work more than 50
24 hours a week?

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1 problems.

2 Q. What if you had an excessive
3 shrinkage problem? Would you disagree with
4 that?

5 A. I don't remember.

6 Q. When you moved to 811 in
7 November, '01, this is after you didn't get
8 the promotion, were you glad?

9 A. Glad what?

10 Q. Were you glad you got that
11 store --

12 A. No.

13 Q. -- 811? You didn't want to be
14 in 811?

15 A. I was going for store 840, the
16 gas store.

17 Q. And you didn't get the gas
18 store, but you testified you did get
19 promoted to 811?

20 A. Yes.

21 Q. Did you want to stay in 825 or
22 were you glad to have gotten 811?

23 A. I just kept working.

24 Q. So the answer is no?

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1 A. I don't remember.

2 Q. Did you ever put in very long
3 hours in your job managing 811? Did you
4 ever work -- well, you don't remember if
5 you worked more than 50 hours a week. Did
6 you ever work 100 hours a week?

7 A. No.

8 Q. Did you ever work 80 hours a
9 week?

10 A. No.

11 Q. It's not unusual for managers
12 to work those kind of hours; isn't that
13 true?

14 A. I don't know.

15 Q. Going back to when you managed
16 825, did you have a shrinkage problem at
17 that store?

18 A. Don't remember.

19 Q. Would it be out of the
20 question if you did? If I told you you had
21 a shrinkage problem at that store, would
22 you disagree with that emphatically?

23 A. It's a possibility because the
24 type of store we run, we can have shrinkage

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1 A. The answer is: I kept
2 working.

3 Q. Who worked for you at 811?
4 What were the names of your associates?

5 A. Christy Mulholland.

6 Q. She was your assistant
7 manager?

8 A. Yes. Sharon Young.

9 Q. What was her job?

10 A. I had two Sharons. One was a
11 CSL. The other one was a food service
12 manager.

13 Q. Which one is Sharon Young?

14 A. Food service manager. I
15 believe the last name was Young.

16 Q. The other Sharon had a sister
17 there. The food service manager was
18 black. Her name was Sharon. And then the
19 other Sharon was white. She had a sister
20 working there, too.

21 Q. You don't remember their last
22 names?

23 A. It's been a while.

24 Q. Well, they did work for you

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1 as your area supervisor?

2 A. Say that again.

3 Q. Joe Gallagher became your
4 supervisor after John Poplawski; correct?

5 A. Yes.

6 Q. And was that around January of
7 2002?

8 A. Yes.

9 Q. How would you characterize
10 your relationship with Joe Gallagher?

11 A. Not good.

12 Q. Why not?

13 A. His style of supervision was a
14 bully tactic type of style, intimidating.
15 When things were wrong in the store, it was
16 my fault. When they were correct, he took
17 credit. He'd pull people from my staff
18 without letting me know. When I asked are
19 there going to be any replacements, that's
20 your job. Changed my schedule without
21 notifying me. Degraded me in front of
22 customers. Give me orders in front of the
23 staff. Every time he came in there, it was
24 a situation where I had to prove myself

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1 where he would talk to the staff first and
2 then I was wrong, what they said was true,
3 and I always had to prove myself to him.
4 When I did the multi-store meeting, the
5 other managers came and said, you did a
6 great job conducting the meeting. He says
7 a comment in front of them, oh, yeah, he
8 got to get his store together. Very
9 intimidating.

10 Q. Anything else?

11 A. Never really spoke when he
12 came in the store, just gave directives the
13 moment he came in. It was my way or the
14 highway type of supervising.

15 Q. Anything else?

16 A. When I did have problems with
17 associates, it was brought to his attention
18 but nothing was done. That added to the
19 morale problem that they talked about. And
20 that was with the food services manager.

21 Q. So you were aware of a morale
22 problem before you left --

23 A. No. I was told after the fact
24 if they're claiming I'm being -- I was

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1 being demoted at the time because of a
2 morale problem, well, when you take two of
3 my key people out of the store, there's
4 going to be a morale problem.

5 Q. Anything else?

6 A. I didn't feel any support. I
7 always felt I was on my own.

8 Q. Anything else?

9 A. Before the no smoking policy
10 indoor act, if the associates talked to him
11 about a morale problem was -- we really
12 didn't have nowhere to smoke. And I was
13 having health problems here, too, because I
14 would tell the staff the bathroom, we just
15 use bathroom to use the bathroom, you know,
16 for our bodily function. Not to smoke.
17 Because there is non-smokers in the store.
18 So I had to keep the non-smokers and the
19 smokers happy the best way I can. That was
20 brought to his attention as I was being
21 hard. Or when they have a policy that if
22 there's three or more people at the
23 register, you have to come out and help the
24 person that was ringing. I would state

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1 that to some of them, we need help, come on
2 over, trying to enforce that policy. They
3 may have ran to Joe and said, oh, he's --
4 here's a morale problem because I'm asking
5 you to come over and help me with -- ring
6 up customers.

7 Q. Because you were asking
8 associates --

9 A. Yes.

10 Q. -- to come help you ring up
11 customers --

12 A. Yes.

13 Q. -- and you were --

14 A. Right. The policy is, if I
15 remember correctly, if you have three or
16 more customers at the register, then they
17 were supposed to come over and help, no
18 matter who you are. If you're a CSL, a
19 food service manager, an associate, you
20 come over to the register and help out.

21 Q. And did you do that?

22 A. Yes, I did.

23 Q. So you're saying the morale
24 problem developed after you asked them to

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1 A. No.
 2 Q. But this e-mail is addressed
 3 to you; correct?
 4 A. Yes.
 5 Q. So did Joe Gallagher offer to
 6 support you in rectifying the poor results
 7 from the audit that Gail Skocik did of your
 8 store?
 9 A. I don't remember.
 10 Q. Did Joe Gallagher create a
 11 special cash rack for you for accommodating
 12 your height? Did Joe approve that the
 13 store that you worked in would be altered
 14 to accommodate you for your height?
 15 A. Don't remember.
 16 Q. So you do not remember that?
 17 A. I don't remember.
 18 Q. Did Joe Gallagher go over
 19 inventory loss with you, your paperwork and
 20 the store?
 21 A. I don't remember.
 22 Q. Did Joe Gallagher visit your
 23 store at least once a week?
 24 A. He visited the store. I don't

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1 know if it was once a week.
 2 Q. Did you have a pizza party in
 3 your store for your associates at store
 4 811?
 5 A. Yes.
 6 Q. Did Joe Gallagher approve that
 7 party, for you to hold that party?
 8 A. Don't remember.
 9 Q. Why did you have the party?
 10 A. Safety.
 11 Q. What about safety?
 12 A. You had to go so many days
 13 without having an incident.
 14 Q. And so this was to commend
 15 your associates for not having any injuries
 16 for a certain period of time?
 17 A. Yes.
 18 Q. Do you have any reason to
 19 believe that Joe Gallagher wouldn't have
 20 supported you having a pizza party for your
 21 associates to commend them for a good
 22 safety record?
 23 MR. ABER: Objection.
 24 THE WITNESS: I don't

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1 remember.
 2 BY MS. BILENKER:
 3 Q. Where was this party?
 4 MR. ABER: I think he just
 5 testified he doesn't remember having
 6 it.
 7 MS. BILENKER: No. He said
 8 that he does remember the pizza
 9 party. He didn't remember getting
 10 Joe's support for it.
 11 BY MS. BILENKER:
 12 Q. Where was the pizza party, Mr.
 13 McCants? Was it in the store or in a
 14 restaurant?
 15 MS. BILENKER: I want to say
 16 something and just comment on the
 17 record here that Mr. McCants take an
 18 unreasonably long time answering
 19 questions, and that's sort of the
 20 delay here that he must take at
 21 least 30 seconds, sometimes a
 22 minute, to answer questions, simple
 23 questions, and that's sort of what's
 24 prolonging things here, Mr. Aber.

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1 So I want the record to reflect
 2 that. These are simple questions.
 3 Was the pizza party at the store or
 4 in a restaurant or somewhere else?
 5 THE WITNESS: I believe it
 6 was outside the store.
 7 BY MS. BILENKER:
 8 Q. Was it at Pizza Hut?
 9 A. I believe so.
 10 Q. Was Mr. Gallagher there?
 11 A. I believe so.
 12 - - -
 13 (Whereupon, Exhibit McCants-12
 14 was marked for identification.)
 15 - - -
 16 BY MS. BILENKER:
 17 Q. I'm showing you an e-mail from
 18 Joe Gallagher to you dated April 15, 2002.
 19 Tell me when you're done reviewing it.
 20 A. Finished.
 21 Q. In this e-mail, doesn't it
 22 show Mr. Gallagher notified you that store
 23 associates who worked at 811 for you were
 24 unhappy, that morale was not improving?

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1 A. Based on this e-mail?
 2 Q. Yes.
 3 A. Yes.
 4 Q. You received this e-mail,
 5 didn't you? Are you denying that you
 6 received this e-mail?
 7 A. I don't remember receiving it.
 8 Q. Well, it's a pretty important
 9 e-mail. It's notifying you that the morale
 10 in your store is not improving. That
 11 associates are talking about leaving
 12 because of you and that you are the one who
 13 can turn it around. Would you agree that
 14 this is an important e-mail?
 15 A. It's important.
 16 Q. You don't recall getting it?
 17 A. No.
 18 Q. You don't recall any
 19 discussions that you had with Mr. Gallagher
 20 during the time that you managed 811 about
 21 morale, about low morale in the store?
 22 A. I don't remember other than
 23 the time we met on the 21st and the meeting
 24 I had with Mr. Gallagher and Mr. Stief.

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1 areas that you needed support and training
 2 on in your store?
 3 A. No; I don't remember.
 4 Q. The program is really an
 5 effort to help managers in their stores in
 6 certain areas? To help managers improve?
 7 You don't recall the program at Wawa?
 8 A. No.
 9 Q. So this e-mail to you, you
 10 don't recall getting where Miss Skocik
 11 recommended and actually asked permission
 12 from Joe Gallagher, which she got, to have
 13 you participate in the program?
 14 A. No.
 15 Q. She set up a date with you
 16 that was convenient for you to come into
 17 the store and do an audit and review that
 18 with you. You don't recall that? You
 19 don't recall meeting with her at the store?
 20 A. I know she did an audit on the
 21 store but I don't remember meeting with her
 22 in reference to the Adopt-A-Store Program.
 23 Q. Well, if you don't focus on
 24 what it was called, she did meet with you

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1 - - -
 2 (Whereupon, Exhibit McCants-13
 3 was marked for identification.)
 4 - - -
 5 BY MS. BILENKER:
 6 Q. Do you know who Gail Skocik
 7 is, Mr. McCants?
 8 A. Auditor.
 9 Q. She is an auditor for Wawa;
 10 correct?
 11 A. Yes.
 12 Q. Did she offer you to
 13 participate in the Adopt-A-Store Program at
 14 Wawa? Do you remember participating in
 15 that program with her?
 16 A. No.
 17 Q. You don't recall that?
 18 A. No.
 19 Q. Do you know what the
 20 Adopt-A-Store Program is at Wawa?
 21 A. The Adopt-A-Store Program.
 22 Q. Well, where Gail Skocik would
 23 come into a store and go through a series
 24 of questions and fact findings to find

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1 in your store; right?
 2 A. I believe she did an audit on
 3 811.
 4 Q. And were you there during the
 5 audit?
 6 A. I think so.
 7 Q. You don't recall sending dates
 8 back to her as to what dates would work
 9 well for her to come into the store to meet
 10 with you to go over to review store
 11 procedures and policies?
 12 A. I don't remember.
 13 Q. You don't recall that Gail
 14 Skocik met with you at your store and the
 15 dates you had scheduled her to come, you
 16 were completely taken off guard and
 17 surprised to see her?
 18 A. I don't remember.
 19 Q. You don't recall that she --
 20 well, let's go back to what you do recall.
 21 You recall her doing an audit with you in
 22 your store; right?
 23 A. I believe it was her who did
 24 the audit.

48 (Pages 186 to 189)

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1 Q. Someone did an audit from Wawa
2 internally?
3 A. Yes.
4 Q. And went over various
5 procedures with you; right?
6 A. Before the audit or after the
7 audit?
8 Q. During the audit.
9 A. No.
10 Q. Before the audit?
11 A. No.
12 Q. After the audit?
13 A. Yes.
14 Q. So after the audit, someone
15 internally from Wawa came over and reviewed
16 procedures in the store with you?
17 A. The audit itself? Is that
18 what you're asking?
19 Q. Yes. I'm talking about when
20 you reviewed with Gail Skocik, but it may
21 be someone else internally at Wawa, you
22 believe it was Gail Skocik, where she
23 reviewed store procedures with you,
24 operating procedures? She went over things

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1 A. No.
2 Q. Did you tell her you were
3 going to put together a plan with your
4 management team on implementing the
5 improvements that she went over with you?
6 A. I don't remember.
7 Q. So you never put together a
8 plan with your management team after
9 meeting with Gail Skocik?
10 A. I don't remember.
11 Q. Do you know who Sharon Young
12 is?
13 MR. ABER: What was the last
14 name?
15 MS. BILENKER: Sharon Young.
16 BY MS. BILENKER:
17 Q. We talked about some Sharons.
18 Do you know Sharon Young?
19 A. I believe that was the food
20 service manager.
21 Q. Did you get along with her?
22 A. In the beginning, as I stated
23 earlier, we would bang head-on on policy as
24 far as Sizzlis, putting Sizzlis out,

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1 with you in the store?
2 A. Relating to the audit?
3 Q. Relating to entering bills.
4 Related to writing off retail items.
5 Nothing?
6 A. I think she mentioned
7 something about write-offs.
8 Q. What about write-offs? That
9 you weren't doing them correctly?
10 A. Make sure that the store is
11 writing off food spoilage properly.
12 Q. And did that -- was that
13 instructive for you?
14 A. That's what she went over
15 after the audit.
16 Q. I'm asking you: Was that
17 instructive? Was that helpful to have her
18 go over that with you?
19 A. Yes.
20 Q. Did she go over other things
21 with you, other discrepancies with you?
22 A. Don't remember.
23 Q. Do you remember anything else
24 she went over with you?

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1 because she's the food service manager, and
2 when to put them out and when to come over
3 and help at the register.
4 Q. What time did you get into
5 work?
6 A. I believe it was 6:00.
7 Q. Is that considered the morning
8 rush at Wawa? A lot of people in the
9 store? A lot of customers?
10 A. I believe so.
11 Q. When you reported to work,
12 what did you do? What was the first thing
13 you did when you got there?
14 A. I did deposits or depends on
15 if there was -- if we had proper help. If
16 we had proper help, I would do deposits.
17 If not, I would jump on the register.
18 Q. Why wouldn't you have proper
19 help?
20 A. If somebody called off. If
21 somebody is running late.
22 Q. What about if you were fully
23 staffed? Would you jump on the register
24 then or --

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1 on?
 2 MR. ABER: Objection.
 3 BY MS. BILENKER:
 4 Q. How about are there any other
 5 symptoms that you can think of that you
 6 believe are the result of your leaving
 7 Wawa?
 8 A. I guess it would be paranoia
 9 of upper management.
 10 Q. Can you explain what that
 11 means?
 12 A. Trusting my superiors.
 13 Q. How are your superiors at your
 14 current job? What are they like?
 15 A. They're okay, but I still have
 16 that paranoia because they're upper
 17 management.
 18 Q. Do you trust them?
 19 A. Not fully.
 20 Q. Did they do something in
 21 particular to make you not fully trust
 22 them?
 23 A. No.
 24 Q. Did anyone ever make any

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1 and Mr. Stief.
 2 Q. What did you say?
 3 A. I just mentioned that a
 4 comment was made.
 5 Q. Anything else?
 6 A. No.
 7 Q. You mentioned a comment was
 8 made but you didn't say, I believe I might
 9 have been discriminated against, or words
 10 to that effect, that you were discriminated
 11 against on the basis of your religion?
 12 A. No. Just that the comment was
 13 made.
 14 Q. And what was their response to
 15 you repeating that comment?
 16 A. I don't remember.
 17 Q. Did you ever mention that you
 18 are the victim of religious discrimination
 19 to Jim Shortall?
 20 A. I don't recall.
 21 Q. Did you ever complain to
 22 anybody else that you felt you were the
 23 victim of religious discrimination?
 24 A. Outside of my attorney and the

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1 racially discriminatory statements to you
 2 while you worked for Wawa?
 3 A. When you say anybody.
 4 Q. Anybody. Any employee.
 5 A. I can't recall.
 6 Q. Did you ever tell John
 7 Poplawski that you felt you were the victim
 8 of race discrimination?
 9 A. No.
 10 Q. Did you ever tell Joe
 11 Gallagher that you felt you were the victim
 12 of race discrimination?
 13 A. No.
 14 Q. How about Mike Stief?
 15 A. I don't remember.
 16 Q. How about Jim Shortall?
 17 A. I don't remember.
 18 Q. Did you ever tell John
 19 Poplawski that you were the victim of
 20 religious discrimination?
 21 A. No.
 22 Q. How about Joe Gallagher?
 23 A. I believe I mentioned it at
 24 the last meeting I had with Mr. Gallagher

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1 Department of Labor?
 2 Q. Yes.
 3 A. No.
 4 Q. How about outside your
 5 attorney and the Department of Labor on
 6 race?
 7 A. No.
 8 Q. Did you ever have an associate
 9 who asked you whether he or she could file
 10 a grievance under the Wawa grievance
 11 policy?
 12 A. I don't recall.
 13 Q. Aside from the comment you
 14 told us you made to John Poplawski about
 15 lack of diversity, were there any other
 16 comments that you made to anyone at Wawa
 17 about what you perceived as unfair
 18 treatment on the basis of race or religion?
 19 A. No.
 20 Q. Wouldn't being involved in
 21 church, as you said you are, be a positive
 22 attribute for a manager at Wawa?
 23 A. Yes.
 24 Q. Isn't it true that Wawa

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1 I can think of is it was a
 2 performance issue. It's my
 3 understanding that in order to get a
 4 touch screen, your deli sales had to
 5 be up. So me being demoted was --
 6 if it was part of my performance,
 7 that store was scheduled for touch
 8 screen ordering, and I'd like to
 9 believe it was only for stores that
 10 reached a certain quota in deli
 11 sales.
 12 MR. ABER: We'll attach a copy
 13 of these?
 14 MS. BILENKER: Yes.
 15 BY MS. BILENKER:
 16 Q. That has to do with the store
 17 financials, getting touch screens?
 18 A. Deli sales.
 19 Q. Sales?
 20 A. Yeah; sales for deli.
 21 - - -
 22 (Whereupon, Exhibit McCants-15
 23 was marked for identification.)
 24 - - -

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1 problems?
 2 A. Usually with shrink, they have
 3 morale problems.
 4 Q. Let's separate out inventory
 5 problems. Do you know if these stores had
 6 low morale problems aside from inventory
 7 issues?
 8 A. Through the grapevine. Yeah.
 9 Hearing in passing that associates were not
 10 happy.
 11 Q. Which associates?
 12 A. Associates at store 801 and
 13 840.
 14 Q. And where did you hear that?
 15 A. Through other associates I
 16 used to work with at 840 and there was
 17 associates like -- it was associates I
 18 worked with at store 840.
 19 Q. And who were those associates?
 20 A. I can't remember the names.
 21 They were associates or one associate -- it
 22 was associates at store 801, but the one I
 23 can remember was Robin Blanton, who used to
 24 work at 801. She came to my store, which

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1 BY MS. BILENKER:
 2 Q. Okay. In the Charge of
 3 Discrimination that you filed in the EEOC
 4 and the Delaware Department of Labor, I
 5 think we went over most of this, but you do
 6 allege at the bottom that other stores such
 7 as 801 and 840 have the same issues,
 8 meaning the same issues, I guess, as your
 9 store, 811, but the white managers were not
 10 demoted. What knowledge do you have that
 11 the store managers at 801 or 840 were not
 12 demoted? Do you have firsthand knowledge
 13 about that?
 14 A. Well, at the time I was
 15 demoted, these two managers had performance
 16 and inventory problems and they were still
 17 on board.
 18 Q. Did they have the same
 19 inventory problems as your store? Do you
 20 know?
 21 A. I don't know to what level,
 22 but inventory problems are inventory
 23 problems.
 24 Q. Did they have low morale

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1 was 811 at the time.
 2 Q. And she's the associate who
 3 resigned from your store?
 4 A. I don't know if she resigned
 5 or not.
 6 Q. That's the same Robin Blanton
 7 who worked for you --
 8 A. There was a Robin Blanton that
 9 worked at store 811. I don't know if she
 10 resigned or not.
 11 Q. You're talking about the Robin
 12 Blanton who came from 801 to your store,
 13 told you about morale issues in 801?
 14 A. Yes.
 15 Q. You don't know about them
 16 firsthand. You know about them through
 17 Robin Blanton?
 18 A. And inventory problems.
 19 Q. I'm just talking about
 20 morale. I'm not talking about inventory
 21 problems.
 22 A. Okay. Morale for 801? Yes;
 23 through Robin Blanton.
 24 Q. Through anybody else or just

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1 through Robin Blanton?
 2 A. Which store?
 3 Q. 801?
 4 A. Robin Blanton, store 801. The
 5 other associates, I don't remember.
 6 Q. You mean from 840 --
 7 A. No; 801.
 8 Q. So there are other associates
 9 at 801 --
 10 A. Yes.
 11 Q. -- who told you that 801 had a
 12 morale problem, but you don't remember
 13 their names?
 14 A. That's correct.
 15 Q. How about at 840? You also
 16 testified you don't remember their names?
 17 A. Store 840? I don't remember
 18 their names.
 19 Q. And was that inventory issues
 20 that those people told you about or also
 21 morale problems?
 22 A. Inventory and morale.
 23 Q. You also stated that two other
 24 black store managers have been demoted at

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1 A. No. He told me he was
 2 demoted.
 3 Q. Do you have knowledge as to
 4 whether he is still demoted or whether he
 5 has been repromoted?
 6 A. No.
 7 Q. Do you know a Wawa employee
 8 named Rob?
 9 A. Last name please?
 10 Q. You don't know his last name?
 11 A. I know a lot of Robs.
 12 Q. Who worked for Wawa? An
 13 assistant manager?
 14 A. There was Robert Bowden that I
 15 worked with at 840.
 16 Q. He was at 840?
 17 A. Yes.
 18 Q. You made a comment to John
 19 Poplawski about a lack of diversity. Did
 20 you ever complain about a lack of diversity
 21 to anyone else at Wawa?
 22 A. I don't recall.
 23 - - -
 24 (Whereupon, Exhibit McCants-16

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1 816 and 801. What knowledge do you have
 2 that black store managers were demoted at
 3 816 or 801?
 4 A. I was told personally by them
 5 they were demoted.
 6 Q. Who are those people?
 7 A. Rick Henry for store 816 and
 8 store 801 was Matt Welch.
 9 Q. And what did Matt Welch tell
 10 you?
 11 A. He told me he was demoted.
 12 Q. Did he tell you if it was
 13 voluntary?
 14 A. No. He just told me he was
 15 demoted.
 16 Q. So you don't know whether or
 17 not it was voluntary?
 18 A. No.
 19 MR. ABER: Objection.
 20 BY MS. BILENKER:
 21 Q. What did Rick Henry tell you?
 22 A. He was demoted.
 23 Q. Did he tell you he was
 24 promoted after being demoted?

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1 was marked for identification.)
 2 - - -
 3 BY MS. BILENKER:
 4 Q. Mr. McCants, I've marked as
 5 No. 16 the Initial Disclosures that you
 6 filed in this case or that your lawyer
 7 filed on your behalf. The first question,
 8 you were supposed to identify everyone you
 9 believe --
 10 MR. ABER: Objection.
 11 BY MS. BILENKER:
 12 Q. -- has discoverable
 13 information that you may use to support
 14 your claims. You've listed 29 people.
 15 I've never seen a list like this before and
 16 I'd like you to tell me who these people
 17 are and what information they have to
 18 support your claim of discrimination. What
 19 evidence does your wife have of
 20 discrimination claims? What knowledge does
 21 she have?
 22 A. She was at that meeting I had
 23 with Mr. Gallagher and Mr. Stief.
 24 Q. Anything else?

ERRATA SHEET

PAGE	LINE	CORRECTION
43	2,7,10	sheldton should be Shelton
44	19	' ' ' ' ' '
52	14,17,23,20	' ' ' ' ' '
53	1,8,15	' ' ' ' ' '
54	4,12	' ' ' ' ' '
55	2,15,20	' ' ' ' ' '
56	23	' ' ' ' ' '
83	19,20	' ' ' ' ' '
86	12,19	' ' ' ' ' '
103	2	' ' ' ' ' '
56	21	Should be A. 840 ² , I believe it was Tom Grant, George Shelton, and George DeNuzio.
56	22	Q. Do you know anything about their qualifications or work history with WAWA?